IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

Crl.MC.No. 5018 of 2003()

CC.103/2003 of JUDL. MAGISTRATE OF FIRST CLASS-II, SULTHANBATHERY

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PETITIONER:

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1. GOPALA PILLAI, SANTHI NAGAR HOUSING COLONY, SULTHAN'S BATHERY.

2. GEETHANJALI BABU, SANTHI NAGAR HOUSING COLONY, SULTHAN'S BATHERY.

3. SAJU JACOB, SANTHI NAGAR HOUSING COLONY, SULTHAN'S BATHERY

4. TOM JOSEPH, SANTHI NAGAR HOUSING COLONY, SULTHAN'S BATHERY

5. KEERTHI BABU, SANTHI NAGAR HOUSING COLONY, SULTAN'S BATHERY

6. BASHEER AHAMMED, SANTHI NAGAR HOUSING COLONY, SULTAN'S BATHERY.

BY ADV. SRI.P.N.PURUSHOTHAMA KAIMAL

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY DIRECTOR OF PUBLIC PROSECUTION, HIGH COURT OF KERALA, ERNAKULAM.

2. DR.K.M.SUBHASH, SANTHI NAGAR HOUSING COLONY, SULTHAN'S BATHERY.

BY PUBLIC PROSECUTOR, SRI AMJAD ALI
SRI.K.T.SYAM KUMAR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 19/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.M.C.No.5018/2003-B

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Dated this the 19th day of September, 2007

O R D E R

The petitioners who are the accused in C.C.No.103/2003 of the court of the Judicial Magistrate of the First Class-II, Sultan Bathery, have sought for getting quashed the above proceedings initiated on the basis of a private complaint with respect to the offences under Sections 448, 294(b), 500 and 270 read with Section 34 of the Indian Penal Code. It is the case of the petitioners that they are residents of Santhi Nagar Housing Colony at Sultan Bathery and they kept a waste bin about 25 metres away from the house of the second respondent/complainant and the second respondent objected to the use of the waste bin and, on the particular day, they had gone to the house of the second respondent to inform him that the use of waste bin will not cause him any difficulty. But according to them he has filed a false complaint before the court below. It was also pointed out that the earlier complaint was forwarded to the police under Section 156(3) Cr.P.C and the police filed a refer report, which is produced as Annexure-1. According to the petitioners, the second respondent has

filed a false complaint. It is also mentioned that the petitioners are respectable persons.

2. I find that Annexure-1 refer report mentions that there was only altercation. It is also seen from the complaint that a civil case on the matter is pending. It is alleged in Annexure-2 complaint that it is on account of political influence etc. that the police was made to file refer report. I find that Annexure-2 contains specific allegations. The contention that in the sworn statement Annexure-3 he has not mentioned the specific words allegedly uttered by the accused that would attract Section 294(b). I find that the same is a matter of evidence. In the circumstances, I find no reason to quash the complaint.

The counsel for the petitioners has sought for a direction to the court below to grant exemption from personal appearance. I find that the above is a matter to be considered by the court below on receipt of the application by the petitioners. The petitioners may appear for personal exemption before the court below and the court below may dispose of the application on merits.

The Crl.M.C is disposed of as above.

K.R.UDAYABHANU,
Judge

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